

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RAY ASKINS AND CHRISTIAN RAMIREZ,

Case No.: 12cv2600-W(BLM)

Plaintiff,

V.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY, et al.

Defendants.

**ORDER (1) SETTING BRIEFING
SCHEDULE, (2) GRANTING PARTIES'
REQUEST FOR ADDITIONAL TIME TO
FILE A MOTION TO COMPEL
REGARDING HISTORIC USE
DISCOVERY, AND (3) CLARIFYING
CHAMBERS RULE V(E)**

On June 10, 2019, counsel for Plaintiff, Ms. Mitra Ebadolahi, Ms. Sara D'Amico, Mr. David Paul Gersch and Mr. Sam Callahan, and counsel for Defendants, Ms. Rachael Lynn Westmoreland, contacted the Court regarding various discovery disputes. In regard to the disputes on the timing of production and need for further responses to propounded discovery, the Court sets the following briefing schedule:

1. Plaintiffs must file their motion on or before **June 25, 2019**;
2. Defendants must file their opposition on or before **July 9, 2019**; and
3. Plaintiffs must file any reply on or before **July 16, 2019**.

Upon completion of the briefing, the Court will take the matter under submission pursuant to Civil Local Rule 7.1(d)(1) and no personal appearances will be required.

1 During the call, Ms. Ebadolahi also raised the issue of Defendants' responses to requests
2 for production regarding historic use. According to Chambers Rules, any discovery motion
3 related to the requests for production regarding historic use must be filed on or before June 12,
4 2019. The parties seek to extend the deadline for filing a motion to July 12, 2019. In support,
5 Ms. Ebadolahi stated that the parties' current dispute may be resolved by Defendants' responses
6 to related interrogatories that are due on June 12, 2019. In order for Plaintiffs to have sufficient
7 time to receive and review the supplemental responses which may resolve their dispute, counsel
8 for both parties seek to continue the motion filing deadline. The parties' request is **GRANTED**.
9 Any discovery motion related to Plaintiffs' requests for production regarding historic use must
10 be filed on or before **July 12, 2019**.

11 Counsel for the parties also seek clarification of the Court's Chambers Rules. Chambers
12 Rule V(E) states

13 All discovery motions must be filed within 30 days of the event giving rise to the
14 dispute and only after counsel have met and conferred and communicated with
15 the Court as set forth above. The event giving rise to the dispute is **NOT** the date
16 on which counsel reach an impasse in their meet and confer efforts. For written
17 discovery, the event giving rise to the dispute is the service of the initial response
18 or production of documents, or the passage of the due date without a response or
19 document production. For oral discovery, the event giving rise to the dispute is the
20 receipt of the transcript from the Court reporter of the affected portion of the
21 deposition.

22 <https://www.casd.uscourts.gov/judges/chambers-rules.aspx#undefined2> (emphasis in
23 original). Defendants' counsel interprets this rule to mean that the parties have thirty days from
24 the production of a privilege log to raise any disputes regarding the privileges asserted in the
25 log. Plaintiffs' counsel interprets the rule to mean that any dispute must be raised within thirty
26 days of the withholding of any document on the grounds of privilege or the production of a
27 redacted document. Pursuant to Plaintiffs' counsels' interpretation, Defendants must produce
28 privilege logs well in advance of the thirty-day deadline so that counsel may meet and confer
regarding any disputes prior to speaking with chambers.

1 The cited rule does not specifically consider the timing of discovery motions related to privilege
2 logs. After considering counsels' positions, the Court finds that defense counsel's interpretation
3 of the rule is reasonable and appropriate and shall apply in this matter. However, counsel are
4 reminded that the privilege log must be provided in a reasonable time frame. See Fed. R. Civ.
5 P. 34(b)(2); see also Fed. R. Civ. P. 26(b)(5); and Burlington Northern & Santa Fe Ry. Co. v.
6 U.S. Dist. Court for Dist. of Mont., 408 F.3d 1142, 1147 (9th Cir. 2005).

7 **IT IS SO ORDERED.**

8 Dated: 6/12/2019



9 Hon. Barbara L. Major
10 United States Magistrate Judge
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